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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Implementation of Section 309(j)
of the Communications Act
Competitive Bidding)

PP Docket No. 93-253COMMENTS OF PNC CELLULAR, INC. AND ITS AFFILIATES

PNC Cellular, Inc. and its affiliates (collectively, "PNC"), by its attorneys, hereby submits its Comments on certain of the issues framed in the Notice of Proposed Rulemaking (the "NPRM") issued in this proceeding.

I. PNC's Interest in the Proceeding

PNC and its affiliates provide cellular service on Frequency Block A in more than 30 MSA and RSA markets in the Midwestern and Northwestern states. As such, PNC is directly affected by the adoption of rules relating to competitive bidding for cellular licenses and, therefore, has a direct interest in the rules that will be promulgated in this proceeding.

Included in the territory in which PNC is developing a regional cellular system are several Frequency Block A cellular rural service areas which have been designated as unserved markets. PNC has operational cellular systems adjacent to each of these unserved markets and has filed applications for interim operating authority in each.

Insofar as the disposition of cellular unserved applications is concerned, the NPRM proposes:

to limit the opportunity [of a cellular carrier] to enter the auction for the unserved areas to those applicants

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who filed prior to July 26, 1993, and request comment on this approach.^{1/}

As shown below, the proposed restriction of eligibility to participate in unserved area auctions to those parties who filed applications prior to July 26, 1993 is too narrow and, therefore, contrary to the very purpose for which the auction procedure is being implemented -- the prompt initiation of service to the public.

II. Eligibility to Participate In Auctions for Cellular Unserved Area Applications Should, Under Certain Circumstances, Include Entities That Did Not File Applications Prior to July 26, 1993

PNC, since its inception, has been assembling a regional cellular system in its service area. The Frequency Block A unserved areas in its territory are integral markets in assembly of PNC's regional operation and have always been included in the company's business plan. However, because PNC has a complex ownership structure involving many entities, some of which have other cellular interests, the company, in order to avoid any possible cross-ownership problems,^{2/} could not file applications for these unserved RSAs in its territory.^{3/} Instead, the company intended to offer to acquire the authorizations for these markets after their award in the now cancelled lotteries.

^{1/} NPRM at para. 160.

^{2/} See Section 22.921(d) of the Commission's Rules.

^{3/} Even if the company had filed such applications, the Mobile Services Division would require their dismissal as a condition of the grant of its pending requests for interim operating authority.

The Commission has recognized that economies of scale and scope have molded cellular systems into wide-area operations like those of PNC.^{4/} Further, one of the primary purposes of the competitive bidding procedures is to promote the rapid deployment of service to the public.^{5/} Because these adjacent unserved markets naturally fit into PNC's regional system, their value to PNC is obviously high. This value would undoubtedly be reflected in PNC's auction bids, if allowed, and may result in a greater return to the Treasury. To preclude PNC from the bidding may actually serve to delay the ultimate provision of service to the public during the period of time in which PNC attempts to negotiate the acquisition of the authorizations from auction winners.

Adoption of a less restrictive view of eligibility to participate in cellular unserved area auctions is in the public interest and would result in little, if any delay, in the auction process. The public interest would be served by ensuring that the authorizations go to the parties that value them the most, a consideration which is particularly acute in the case of adjacent market operators such as PNC.

^{4/} See Bill Welsh, 3 FCC Rcd 6502 (1988) and Amendment of the Commission's Rules to Establish New Personal Communications Services, GEN Docket No. 90-314, RM-7140, RM-7175, and RM-7618, Second Report and Order, Released October 22, 1993, at para. 74.

^{5/} See Section 309(j)(3) of the Communications Act of 1934, as amended.

Conclusion

For the reasons stated herein, PNC urges the Commission to adopt a broader standard of eligibility for participation in cellular authorization auctions than that proposed in the NPRM.

Respectfully submitted,

PNC CELLULAR, INC. AND ITS AFFILIATES

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November 10, 1993